

CONTENTS:

- 1. H.R. 337 Black Hills National Cemetery Boundary Expansion Act
- 2. <u>H.R. 689 To insure adequate use and access to the existing Bolts Ditch headgate and ditch segment within the Holy Cross Wilderness in Eagle County, Colorado</u>
- 3. H.R. 494 Fort Frederica National Monument Boundary Expansion Act
- 4. <u>H.R. 618 To authorize, direct, expedite, and facilitate a land exchange in El Paso and Teller Counties, Colorado</u>
- 5. <u>H.R. 698 To require a land conveyance involving the Elkhorn Ranch and the White River</u> National Forest in the State of Colorado
- 6. H.R. 688 To adjust the boundary of the Arapaho National Forest, Colorado
- 7. H.R. 387 Email Privacy Act

H.R. 337 — Black Hills National Cemetery Boundary Expansion Act (Noem, R-SD)

CONTACT: Noelani Bonifacio, 202-226-9719

FLOOR SCHEDULE:

Scheduled for consideration on February 6, under suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

<u>H.R. 337</u> would require the Bureau of Land Management (BLM) to transfer 200 acres of land to the Department of Veterans Affairs (VA) to expand the <u>Black Hills National Cemetery</u> in South Dakota.

COST:

A Congressional Budget Office (CBO) cost estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

CBO <u>estimated</u> that implementing H.R 3839, passed in the 114th Congress and identical to H.R. 337, would have no significant effect on the federal budget.

CONSERVATIVE CONCERNS:

- Expand the Size and Scope of the Federal Government? No.
- Encroach into State or Local Authority? No.
- Delegate Any Legislative Authority to the Executive Branch? No.
- Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 337 would require BLM to transfer approximately 200 acres of land adjacent to Black Hills National Cemetery, South Dakota to the jurisdiction of the Department of Veterans Affairs. As soon as practicable after the date of the bill's enactment, the Secretary of the Interior would be directed to publish in the Federal Register a notice containing the legal descriptions of the public lands withdrawn, deemed property, and transferred to the VA. The Secretary of Veterans Affairs would additionally be directed to reimburse the Secretary of the Interior for reasonable costs incurred by the Secretary of the Interior in implementing the transfer, including the costs of any surveys.

Upon a determination by the Secretary of Veterans Affairs that all or a portion of the lands withdrawn, deemed property, and transferred would not be used for cemetery purposes, the secretary would be required to notify BLM of such determination. The Secretary of Veterans Affairs would then be required to transfer administrative jurisdiction of the lands to the Secretary of the Interior. The Department of Veterans Affairs would be responsible for costs of any decontamination of the lands.

H.R. 337 contains identical language to <u>H.R. 3839</u>, which passed the House in the 114th Congress by voicevote on September 6, 2016. The RSC's legislative bulletin for H.R. 3839 can be found <u>here</u>.

COMMITTEE ACTION:

H.R. 337 was introduced on January 5, 2017. It was referred to the Committee on Natural Resources and the Committee on Veteran's Affairs.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: "Congress has the power to enact this legislation pursuant to the following: Article 4, Section 3, Clause 2, relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."



H.R. 689 — To insure adequate use and access to the existing Bolts Ditch headgate and ditch segment within the Holy Cross Wilderness in Eagle County, Colorado (Polis, D-CO)

CONTACT: Noelani Bonifacio, 202-226-9719

FLOOR SCHEDULE:

Scheduled for consideration on February 6, under suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

<u>H.R. 689</u> would require the U.S. Forest Service to provide a special use authorization to the town of Minturn, Colorado to allow the town to manage and maintain a headgate and ditch segment used to divert water to Bolts Lake, within the <u>Holy Cross Wilderness</u> in Eagle County, Colorado.

COST:

A Congressional Budget Office (CBO) cost estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

CBO <u>estimated</u> that implementing H.R 4510, passed in the 114th Congress and identical to H.R. 689, would increase offsetting receipts from annual fees associated with the authorization by about \$150 a year; therefore pay-as-you-go procedures would apply. Enacting the bill would not affect revenues. CBO estimated that enacting the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- Encroach into State or Local Authority? No.
- Delegate Any Legislative Authority to the Executive Branch? No.
- Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 4510 would direct the Secretary of Agriculture, through the U.S. Forest Service, to permit by special use authorization non-motorized access and use, of the Bolts Ditch headgate and the Bolts Ditch within the Holy Cross Wilderness, Colorado for the purposes of the diversion of water and use, maintenance, and repair by the town of Minturn, Colorado.

H.R. 381 contains identical language to <u>H.R. 4510</u>, which passed the House in the 114th Congress by voicevote on September 6, 2015. The RSC's legislative bulletin for H.R. 4510 can be found <u>here</u>.

COMMITTEE ACTION:

H.R. 381 was introduced in the House on January 24, 2017 and referred to the House Committee on Natural Resources.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 1 (relating to the power of Congress to provide for the general welfare of the United States) and Clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress). Article IV, Section 3, Clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting territory or other property belonging to the United States)."



H.R. 494 — Fort Frederica National Monument Boundary Expansion Act (Carter, R-GA)

CONTACT: Noelani Bonifacio, 202-226-9719

FLOOR SCHEDULE:

Scheduled for consideration on February 6, under suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

<u>H.R. 494</u> would authorize the expansion of the <u>Fort Frederica National Monument</u> on St. Simons Island, Georgia increasing the maximum acreage from 250 to 305 acres.

COST:

A Congressional Budget Office (CBO) cost estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

The Congressional Budget Office (CBO) <u>estimated</u> that implementing H.R 3480, passed in the 114th Congress and identical to H.R. 494, would cost about \$1 million to acquire certain properties that are adjacent to the Fort Frederica monument. Enacting H.R. 3480 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CONSERVATIVE CONCERNS:

Some conservatives may be concerned that the bill would authorize the acquisition of additional federal land through the use of appropriated funds. The federal government's landholding constitute over one-quarter of the U.S. landmass, and much of it is poorly managed. The National Park Service, in particular, suffers from a severe backlog of maintenance requirements on existing lands.

- Expand the Size and Scope of the Federal Government? No.
- Encroach into State or Local Authority? No.
- Delegate Any Legislative Authority to the Executive Branch? No.
- Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 3480 would authorize the expansion of the Fort Frederica National Monument on St. Simons Island, Georgia, increasing the maximum acreage from 250 to 305 acres. The Secretary of the Interior would be authorized to acquire the land and interests in land by donation or purchase with donated or appropriated funds from willing sellers only. No non-federal property would be allowed to be included in the Fort Frederica National Monument without the written consent of the owner. The Secretary of the Interior would be prohibited from acquiring by condemnation or eminent domain any land or interests in land under the bill. Nothing in H.R. 494, the establishment of the Fort Frederica National Monument, or the management plan for the Fort Frederica National Monument would be construed to create buffer zones outside of the Monument.

H.R. 494 contains identical language to <u>H.R. 3480</u>, which passed the House in the 114th Congress by voicevote on September 6, 2016. The RSC's legislative bulletin for H.R. 3480 can be found here.

COMMITTEE ACTION:

H.R. 494 was introduced in the House on January 12, 2017 and referred to the House Committee on Natural Resources.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 18 The Congress shall have Power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof."

H.R. 618 — To authorize, direct, expedite, and facilitate a land exchange in El Paso and Teller Counties, Colorado (Lamborn, R-CO)

CONTACT: Noelani Bonifacio, 202-226-9719

FLOOR SCHEDULE:

Scheduled for consideration on February 6, under suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

<u>H.R. 618</u> would authorize a land exchange within the Pike National Forest, in El Paso County, Colorado, between the Forest Service and Broadmoor Hotel, Inc., (BHI) a Colorado corporation.

COST:

A Congressional Budget Office (CBO) cost estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

The Congressional Budget Office (CBO) <u>estimated</u> that implementing H.R 2223, passed in the 114th Congress and identical to H.R. 618, would reduce offsetting receipts, which are treated as reductions in direct spending, by about \$350,000 over the 2016-2025 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 2223 would not affect revenues.

CONSERVATIVE CONCERNS:

There are no major substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- Encroach into State or Local Authority? No.
- Delegate Any Legislative Authority to the Executive Branch? No.
- Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS:

This bill would authorize the Forest Service to convey approximately 83 acres of land within the Pike National Forest to BHI, in return for approximately 320 acres of non-federal land within the Pike National Forest, Teller County, Colorado. The values of the lands to be exchanged under the bill would be determined by the Secretary of Agriculture. If the final appraised value of the federal land exceeds the final appraised value of the non-federal land, BHI would be obligated to make a cash equalization payment to the United States as necessary to achieve equal value. The land acquired by the Secretary of Agriculture under H.R. 618 would become part of the Pike-San Isabel National Forest and be managed under the National Forest System.

H.R. 618 contains identical language to <u>H.R. 2223</u>, which passed the House in the 114th Congress by voicevote on September 16, 2015. The RSC's legislative bulletin for H.R. 2223 can be found <u>here</u>.

COMMITTEE ACTION:



H.R. 618 was introduced in the House on January 24, 2017 and referred to the House Committee on Natural Resources.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: "Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8." No specific enumerating clause was included.



H.R. 698 — To require a land conveyance involving the Elkhorn Ranch and the White River National Forest in the State of Colorado (Tipton, R-CO)

CONTACT: Noelani Bonifacio, 202-226-9719

FLOOR SCHEDULE:

Scheduled for consideration on February 6, under suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

<u>H.R. 698</u> would authorize a land conveyance of approximately 148 acres around the Elkhorn Ranch and the <u>White River National Forest</u> in Colorado to a private limited liability partnership.

COST:

A Congressional Budget Office (CBO) cost estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

The Congressional Budget Office (CBO) <u>estimated</u> that implementing H.R 1554, passed in the 114th Congress and identical to H.R. 698, would reduce receipts by less than \$500,000 over the 2022-2025 period. Enacting the bill would not affect revenues.

CONSERVATIVE CONCERNS:

There are no substantive concerns

- Expand the Size and Scope of the Federal Government? No.
- Encroach into State or Local Authority? No.
- Delegate Any Legislative Authority to the Executive Branch? No.
- Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 698 would convey a parcel of land consisting of approximately 148 acres of the Elkhorn Ranch and White River National Forest to the Gordman-Leverich Partnership, a Colorado Limited Liability Partnership. The conveyance would not modify the exterior boundary of the White River National Forest and would be required to be completed not later than 180 days after the bill's enactment.

H.R. 698 contains identical language to <u>H.R. 1554</u>, which passed the House in the 114th Congress by voicevote on September 6, 2016. The RSC's legislative bulletin for H.R. 1554 can be found <u>here</u>.

COMMITTEE ACTION:

H.R. 698 was introduced in the House on January 24, 2017 and referred to the House Committee on Natural Resources.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: "Congress has the power to enact this legislation pursuant to the following: Article 4, Section 3, Clause 2: The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

H.R. 688 — To adjust the boundary of the Arapaho National Forest, Colorado (Polis, D-CO)

CONTACT: Noelani Bonifacio, 202-226-9719

FLOOR SCHEDULE:

Scheduled for consideration on February 6, under suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

<u>H.R. 688</u> would modify the boundary of the <u>Arapaho National Forest</u> in Colorado to include an additional 92.95 acres of land.

COST:

A Congressional Budget Office (CBO) cost estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

The Congressional Budget Office (CBO) <u>estimated</u> that implementing H.R 1324, passed in the 114th Congress and identical to H.R. 688, would have no significant effect on the federal budget. CBO expected that any additional costs to revise brochures, maps, and signs to reflect the new boundary would not be significant because such revisions would take place in conjunction with scheduled reprinting and routine maintenance.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- Encroach into State or Local Authority? No.
- Delegate Any Legislative Authority to the Executive Branch? No.
- Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 668 requires the Secretary of Agriculture to include all federal land within certain boundaries in the Bowen Gulch Protection Area established under section 6 of the Colorado Wilderness Act of 1993 (16 U.S.C. 539j). Nothing in the bill would open privately owned lands within the boundary to public motorized use.

H.R. 668 contains identical language to <u>H.R. 1324</u>, which passed the House in the 114th Congress by a vote of <u>381-30</u> on October 6, 2016. The RSC's legislative bulletin for H.R. 1324 can be found <u>here</u>.

COMMITTEE ACTION:

H.R. 668 was introduced in the House on January 24, 2017 and referred to the House Committee on Natural Resources.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: "Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 (relating to the power of Congress to provide for the general welfare of the United States) and Clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress). Article IV, Section 3, Clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting territory or other property belonging to the United States)."

H.R. 387 – Email Privacy Act (Rep. Yoder, R-KS)

CONTACT: Jennifer Weinhart, 202-226-0706

FLOOR SCHEDULE:

Expected to be considered on February 6, 2017, under a suspension of the rules, which requires 2/3 majority for final passage.

TOPLINE SUMMARY:

H.R. 387 would amend the <u>Electronic Communications Privacy Act of 1986</u> to require federal authorities to obtain a warrant prior to accessing all email or digital communications.

COST:

A Congressional Budget Office (CBO) estimate is not yet available.

CBO <u>estimated</u> that H.R. 699 from the 114th Congress, which is similar to H.R. 387, would have no significant costs to the federal government.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- Expand the Size and Scope of the Federal Government? No.
- Encroach into State or Local Authority? No.
- Delegate Any Legislative Authority to the Executive Branch? No.
- Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS:

The Electronic Communications Privacy Act (ECPA) of 1986 prevents providers of remote electronic communications services from knowingly divulging electronic communications kept in electronic storage or maintained by a provider, except for certain exceptions. Presently, law enforcement or civil agencies may request this information by subpoena only, if it is more than 180 days old and considered abandoned property. Subpoenas, unlike warrants, do not require probable cause for issuance. Although the subpoena powers have not been used recently, <u>since</u> a 2010 case questioning their constitutionality, H.R. 387 would essentially nullify the 180-day rule, requiring government authorities to obtain a warrant prior to obtaining electronic communications, regardless of how long the communications have been held in storage. All customer communications that are stored or maintained by a provider would be afforded the same high level of disclosure protections.

Presently, the Email Communications Privacy Act does not differentiate between publicly disclosed content, like advertisements, and that which is disclosed privately, like email or texts. H.R. 387 would establish that public content need not be obtained through the same rigorous process, like a warrant, that is necessary for private content.

The legislation would not require the government to notify suspects of an ECPA warrant after emails were released, though it does allow service providers that are served a warrant to notify suspects that a warrant has been issued. H.R. 387 would also, however, allow government officials to apply for a court order that would direct providers to not provide such notice for up to 180 days, subject to further extension.

This legislation would prohibit disclosure requirements from being construed to limit the government's use of administrative or civil discovery subpoena to require: (1) an originator or recipient of a communication from disclosing its contents; (2) an entity with electronic services for its employees from disclosing electronic communications held on systems owned or operated by the entities; or, (3) a person

or entity that provides a remote computing or electronic communication service to disclose a wire or electronic communication that promotes a service that is readily accessible to the general public.

Nothing in this legislation would limit the power of Congress to conduct its own investigations when necessary, and would not diminish Congress's authority to compel the production of electronic or wire communications. H.R. 387 would also maintain a legal distinction between remote computing services and electronic communications services. A remote computing service, like something stored on the cloud, would remain separate from something like a shared Google document, which would be a form of an electronic communication.

Similar legislation passed by a vote of 419-0 in the 114th Congress as H.R. 699 on April 27, 2016. A legislative bulletin on H.R. 699 is available here.

GROUPS IN SUPPORT:

Adobe <u>Amazon</u>

American

Association of Law Libraries American Civil Liberties Union American Library Association Americans for Tax Reform

AOL Association of Research Libraries

Brennan Center for Justice BSA | The Software

Alliance Center for Democracy & Technology

Cisco Systems

<u>Competitive Enterprise Institute</u>

CompTIA

Computer & Communications Industry

Association **Consumer Action**

Consumer Technology Association

The Constitution Project Council for Citizens

Against Government Waste

Data Foundry

Data & Marketing Association

Demand Progress Digital Liberty Discovery Institute

Distributed Computing Industry Association

Dropbox DuckDuckGo

Electronic Frontier Foundation

Engine Evernote Facebook

Federation of Genealogical Societies

FreedomWorks

Future of Privacy Forum

Golden Frog Google **IBM I2Coalition**

Information Technology and Innovation

Foundation

Information Technology Industry Council

<u>Institute for Policy Innovation</u>

Internet Association The Jeffersonian Project

Microsoft

National Association of Criminal Defense Lawyers

NetChoice

New America's Open Technology Institute

News Media Alliance Niskanen Center R Street Institute

Reform Government Surveillance

Snap Inc.

Software & Information Industry Association

Taxpayers Protection Alliance

<u>TechFreedom</u> **TechNet Twitter**

U.S. Chamber of Commerce

Workday Verizon Yahoo

COMMITTEE ACTION:

H.R. 387 was introduced on January 9, 2017, and referred to the House Committee on the Judiciary.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Amendment IV The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

NOTE: RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.